

### REMARKS

Applicants respectfully request entry of the amendments and remarks submitted herein. Claims 57, 70, 83 and 96 have been amended herein and claims 69, 82 and 95 have been canceled without prejudice to continued prosecution.

Claims 57, 66, 67, 70, 79, 80, 83, 92, 93 and 96 are currently pending. Reconsideration of the pending application is respectfully requested.

#### The 35 U.S.C. §112 Rejections

Claims 57, 67, 70, 80, 83 and 93 stand rejected under 35 U.S.C. §112, second paragraph, as the Examiner asserted that those claims are indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. According to the Examiner, claims 57, 67, 70, 80, 83 and 93 are indefinite because it is not clear where the donor and acceptor are positioned. This rejection is respectfully traversed.

The pending claims are directed toward an article of manufacture. The claimed article of manufacture includes a pair of primers, a pair of probes, and a donor and an acceptor moiety. Therefore, in the article of manufacture, the donor and acceptor moieties are not necessarily attached to any of the primers or probes. The specification as well as the package label or insert recited in claims 67, 80 and 93 both contain instructions regarding labeling the probes to obtain the desired effect (e.g., FRET).

In view of the remarks herein, these claims are not indefinite and clearly describe the components of the article of manufacture. Accordingly, Applicants respectfully request that the rejection of the pending claims under 35 U.S.C. §112, second paragraph, be withdrawn.

#### The 35 U.S.C. §103 Rejections

Claims 57, 66, 67 and 69 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ramisse et al., Makino et al. and Buck et al. (and further in view of Wittwer et al. and Qi et al.); claims 70, 79, 80 and 82 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ramisse et al., Price et al., and Buck et al. (and further in view of Wittwer et al. and Qi et al.); claims 83, 92, 93 and 95 stand rejected under 35 U.S.C. §103(a) as being unpatentable over

Ramisse et al, Bragg et al. and Buck et al. (and further in view of Wittwer et al. and Qi et al.); and claim 96 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ramisse et al., Makino et al., Price et al., Bragg et al. and Buck et al. This rejection is respectfully traversed.

Applicants have amended independent claims 57, 70 and 83 to recite, inclusively, all four sequences. Similarly, Applicants have amended independent claim 96 to recite, inclusively, all twelve sequences. In addition, the length limitation on each primer and probe has been removed, and the independent claims now recite the specific primer and probe sequences that were exemplified in the specification. Further, Applicants reiterate the previous arguments regarding the high specificity and sensitivity of the specifically claimed combinations of primers and probes. Therefore, Applicants have clearly demonstrated unexpected and surprising results with respect to the specifically claimed combination of primers and probes.

As indicated in previous Responses, none of the cited references disclose the specifically claimed primers and probe sequences. Applicants strongly believe that the particular combination of four and especially the particular combination of twelve specific primer and probe sequences is not obvious over the combination of references cited by the Examiner. In view of the amendments and remarks herein, Applicants respectfully request that the rejection of the pending claims under 35 U.S.C. §103(a) be withdrawn.

#### CONCLUSION

Applicants respectfully request allowance of claims 57, 66, 67, 70, 79, 80, 83, 92, 93 and 96. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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/M. Angela Parsons/

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